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EXAMINER

SWARTZ, JAMIE H

ART UNIT

PAPER NUMBER

3684

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Status

1. This action is in response to the amendment filed on December 3, 2009. Claims 3-5, 7-8 and 11-19 are pending. Claims 3, 5, 12, 16 are amended. No new claims were added. Claims 9 and 10 were cancelled.

2. Also, Examiner notes that, as per MPEP § 2144.03(C), the statements of Official Notice made in the art rejection have been established as admitted prior art since Applicant has not traversed the Examiner's assertions of Official Notice. Official notice now admitted prior art is taken that a withdrawal from an account was well known in the art at the time of the invention.

3. The examiner would also like to re-acknowledge the applicants statement regarding attempts to contact the examiner for an interview. The examiner still has no record of a call or message from the applicant. The examiner welcomes the applicant to contact the examiner to set up an interview. The examiner's phone number is located at the bottom of the office action.

Response to Arguments

4. Applicant's arguments filed July 16, 2009 have been fully considered but they are not persuasive.

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5. The applicant on pages 11-13 gives a general summary of the invention. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies are not recited in the rejected claim(s). For example the applicant claims that the prior art does not teach

- a. "extending a line of credit to a checking account holder who has completed a purchase transaction for an amount that exceeds the balance of the checking account, with at least a portion of the extended line of credit being secured by earmarked funds," (applicant's arguments pg. 12).
- b. "receive the line of credit at an interest rate lower than what would normally be commensurate with his associated credit rating," (applicant's arguments pg. 12).
- c. "benefit from an improved credit score with the demonstrative positive payment behavior," (applicant's arguments pg. 12).
- d. "Vasic does not describe, suggest or teach that the lendee may receive the full amount of the payroll check with the subsequent expectation that the lendee will 'make payments' on his own accord to the 3rd party lender," (applicant's arguments pg. 13).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

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6. With regards to claims 3 and 12 the applicant has argued things that were not claimed, and fails to specifically point to areas in the claims that the applicant believes is not taught by the prior art. The applicant has not argued any specifics for claims 16-19 thus the examiner has not responded to any arguments for those specific claims.

7. Applicant's arguments with respect to claims 3, 4, 5, 7, 8, 11 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

9. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

10. Claim 5 recites the limitation "the loan" on page 4, line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macias (US 20020116324 A1) in view of Kjonaas et al. (US 20010007332 A1).

13. Regarding claim 3, Macias teaches creating a funded financial account with particular characteristics, wherein the funded financial account is associated with a particular customer (§ 13). Macias teaches qualifying the particular customer based on received information pertaining to the customer in view of a risk analysis based on this received information and underwriting criteria, the qualification of the particular customer being an indication that the customer satisfies risk analysis and underwriting criteria commensurate with the funded financial account (§ 13). Macias teaches receiving funds from the particular customer (§ 13). Macias teaches based on the verification of additional funds in a deposit account of the particular customer, providing a line of credit that, in addition to said funds deposited into said funded financial account, can be drawn against on behalf of the particular customer (§ 13). Macias teaches verifying additional funds residing in a deposit account of the particular customer (§ 13). Macias teaches establishing repayment performance requirements for any funds drawn against said line of credit (§ 13). Macias teaches issuing a transaction card, the transaction card being operable to be used in financial transactions and is associated with the funded financial account (§ 13, abstract). Macias teaches receiving a financial transaction request based on the use of the transaction card (§ 13). Macias teaches clearing all or a portion of the financial transaction utilizing the funded financial

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account (§ 13). Macias teaches clearing any remainder of the financial transaction not covered by funds in said funded financial account with funds from said line of credit (§ 13). Macias does not specifically teach the act of depositing the funds received from a customer to an account or direct deposit. However, Kjonaas teaches depositing the funds received from the particular customer into the funded financial account (§ 49). Kjonaas teaches funds residing in a direct deposit account (§ 11). Kjonaas also teaches an underwriting process (§ 45). This known technique is applicable to the system of Macias as they both share characteristics and capabilities, namely, they are both directed to the use of bank cards within the financial services industry. One of ordinary skill in the art would have recognized that applying the known technique of Kjonaas would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Kjonaas to the teachings of Macias would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such depositing features into similar systems. Further, applying direct deposit to Macias would have been recognized by those of ordinary skill in the art as resulting in an improved system that would saved time, a system with no payments getting lost, confidential, and immediate access to money.

14. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macias (US 20020116324 A1) in view of Kjonaas et al. (US 20010007332 A1) in further view of Lawlor et al. (US 6202054 B1).

15. Regarding claim 4, Macias teaches bank cards and is particularly directed to improved bank cards which combine the features of debit cards and credit cards into a single card which can access a customer's line of credit whenever the checking account balance falls below a desired amount. Kjonaas teaches direct deposit accounts (§ 11). The combination of Macias and Kjonaas does not specifically teach gaining access to the account and extracting funds. However, Lawlor teaches gaining access to a direct deposit account of the particular customer; and extracting the funds from the direct deposit account (col. 7, lines 33-46). Macias teaches a bank card with extra financial services. Kjonaas teaches the creating of a financial account. Lawlor teaches the specific uses of a created financial account. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Macias and Kjonaas to include the details of gaining access to a direct deposit account and removing funds. A direct deposit account is a well known type of financial account. Upon completion of a transaction funds clear from the financial account associated with the transaction.

16. Regarding claim 5, Macias teaches gaining access to verified funds residing in an account of a customer (§ 13). Macias does not specifically teach a direct deposit account. However, Macias does not specifically teach the act of depositing the funds as a direct deposit. However, Kjonaas teaches funds residing in a direct deposit account (§ 11). This known technique is applicable to the system of Macias as they both share

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characteristics and capabilities, namely, they are both directed to the use of bank cards within the financial services industry. One of ordinary skill in the art would have recognized that applying the known technique of Kjonaas would have yielded predictable results and resulted in an improved system. It would have been recognized that applying the technique of Kjonaas to the teachings of Macias would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to incorporate such depositing features into similar systems. Further, applying direct deposit to Macias would have been recognized by those of ordinary skill in the art as resulting in an improved system that would save time, a system with no payments getting lost, confidential, and immediate access to money. The combination of Macias and Kjonaas does not specifically teach gaining access to the account and extracting funds. However, Lawlor teaches gaining access to a direct deposit account of the particular customer; and extracting the funds from the direct deposit account (col. 7, lines 33-46). Macias teaches a bank card with greater functionality. Kjonaas teaches the creating of a financial account. Lawlor teaches the specific uses of a created financial account. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Macias and Kjonaas to include the details of gaining access to a direct deposit account and removing funds. A direct deposit account is a well known type of financial account. Upon completion of a transaction funds clear from the financial account associated with the transaction.

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17. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macias (US 20020116324 A1) in view of Kjonaas et al. (US 20010007332 A1) in further view of Liebermann (US 7287009 B1).

18. Regarding claim 7, Macias teaches bank cards and is particularly directed to improved bank cards which combine the features of debit cards and credit cards into a single card which can access a customer's line of credit whenever the checking account balance falls below a desired amount. Kjonaas teaches depositing funds into an account. The combination of Macias and Kjonaas doesn't specifically teach receiving the funds from a point of sale terminal. However, Liebermann teaches receiving funds from the particular customer at a point of sale terminal; and depositing the funds received from the particular customer into the funded financial account (col. 9, line 33—col. 10, line 7). Macias teaches a bank card with extra financial services. Kjonaas teaches a remote interactive point access financial and information system implemented to provide an integrated platform of service. Liebermann teaches a way of carrying out personal and business transactions, such as financial transactions via a remote interactive point. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Macias to teach a point of sale terminal. Modifying Macias to include a point of sale terminal allows the customer more access and a more convenient way to access their money.

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19. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macias (US 20020116324 A1) in view of Kjonaas et al. (US 20010007332 A1) in further view of INGdirect.com (As viewed through web.archive.org October 10, 2002).

20. Regarding claim 8, Macias teaches bank cards and is particularly directed to improved bank cards which combine the features of debit cards and credit cards into a single card which can access a customer's line of credit whenever the checking account balance falls below a desired amount. Kjonaas teaches depositing funds into an account. The combination of Macias and Kjonaas doesn't specifically teach receiving and depositing funds by mail. However, INGdirect.com teaches receiving funds from the particular customer through the mail (pg. 1-11). INGdirect.com teaches depositing the funds received from the particular customer into the funded financial account (pg. 1-11). Macias teaches a bank card with extra financial services. Macias teaches a bank card with extra financial services. Kjonaas teaches the creation of a new account including receiving funds. INGdirect.com is a bank and discloses different types of financial accounts, which are available through them. It would have been obvious to modify Macias and Kjonaas to include the details of mailing in the deposit because mailing in money to be added (deposited) the account allows for financial companies without physical buildings to offer deposit services to their customers. Even a company with physical buildings can allow their customers ease of use by allowing them to mail in their deposits rather than standing in line or having them bend their schedules around banking hours. It also adds an extra service aspect as mailing checks allows for

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customers who may own homes in more than one state to keep and maintain their accounts in one state.

21. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Macias (US 20020116324 A1) in view of Kjonaas et al. (US 20010007332 A1) in further view of Risafi et al. (US 6473500 B1).

22. Regarding claim 11, Macias teaches bank cards and is particularly directed to improved bank cards which combine the features of debit cards and credit cards into a single card which can access a customer's line of credit whenever the checking account balance falls below a desired amount. The combination of Macias and Kjonaas teaches a debit and a credit card but does not specifically teach that the card is branded.

However, Risafi teaches *issuing a branded transaction card* (col. 10, line 32 – col. 11, line 42). It would have been well known in the art at the time of the invention to modify Macias and Kjonaas to include the details of a branded card. Branded debit and credit cards were well known in the art at the time of the invention. Modifying Macias to include the details of a branded card would allow the customer to use the card at a greater number of locations.

23. Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. (US 5866889 A) in view of Vasic (US 20010034676 A1) in further view of

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Official Notice now admitted prior art in further view of Kjonaas et al. (US 20010007332 A1).

24. Regarding claim 12, Weiss teaches *a data collection component, wherein said data collection component is operable receive account option data, account formation data and an initial deposit* (col. 4, line 59 – col. 7, line 5, col. 8, line 66 – col. 9, line 22, col. 12, line 6 – col. 13, line 49, col. 14, line 60 – col. 15, line 2, col. 16, lines 12 - 19). Weiss teaches *a decision engine operable to qualify a customer for an account based at least in part on said formation data and said account option data* (col. 13, lines 5 - 49). Weiss teaches *a transactional processing component operable to receive transactions initiated with the transaction card and clear the transactions against the account* (col. 4, line 11 – col. 6, line 29, col. 9, line 23 – col. 10, line 23). Weiss teaches wherein the initial deposit being obtained by gaining access to a direct deposit account of the particular customer (col. 15, line 29 - col. 16, line 44). Official notice now admitted prior art is taken that a withdrawal from an account was well known in the art at the time of the invention. Weiss teaches *an account creation component operable to establish an account for the qualified customer based at least in part on the account option data and account formation data and to create a transaction card* (col. 4, line 11 – col. 6, line 29, col. 9, line 23 – col. 10, line 23, col. 19, lines 9-60). Weiss however does not teach a checkless checking account. However, Vasic teaches *a checkless checking account* (§ 24- 47). Vasic teaches *based at least in part on the account formation data and the access to the direct deposit account, establishing payment performance requirements*

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for the line of credit (§ 28, 50 - 67). Vasic teaches *deducting funds from the direct deposit account to cover an outstanding balance if the particular customer fails to meet the payment* (§ 28, 50 - 67). Vasic teaches *providing a line of credit that can be drawn against through the use of the transaction card* (§ 12, 24, 39-50). Weiss teaches a banking system and method for opening an account. Weiss discloses full investment capability, full banking capability, bill payment capability, lending capability--basically everything a customer would financially need to do. Vasic discloses a way to offer an employee a financial resource from which forwarded wages may be drawn. Vasic discloses providing a payroll access resource, which may be accomplished, by providing a third party bank account. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weiss to include the details of a checkless checking account because a checkless checking account saves money and provides a greater efficiency in the banking world. Payroll cards, which can be used at automatic teller machines, have existed for over 10 years. They were developed to market to corporations with large numbers of unbanked employees or highly decentralized operations. It reduces the need to produce checks and send them by overnight delivery to various locations. Weiss does not specifically teach a risk analysis performed on the formation data. However, Kjonaas teaches a risk analysis (§ 45-49). Both Weiss and Kjonaas teach the setting up of financial accounts. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weiss to include the details of a risk analysis. A risk analysis allows the financial institution the ability to identify any problems that the customer may have currently or in the future. It

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allows the financial institution the ability to protect themselves as well as investors from possible fraud.

25. Regarding claim 13, Weiss teaches *wherein the initial deposit is placed into a stored value component* (col. 16, lines 12 – 19).

26. Regarding claim 14, Weiss teaches *wherein said account further comprises an overdraft component, wherein said overdraft component is coupled to said stored value component* (col. 19, line 39 – col. 20, line 8).

27. Regarding claim 15, Weiss teaches *wherein said overdraft component has a value that is determined by said decision engine* (col. 19, line 39 – col. 20, line 8).

28. Claims 16-17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. (US 5866889 A) in view of Vasic (US 20010034676 A1) in further view of Palm Beach Post (1999) in further view of Kjonaas et al. (US 20010007332 A1).

29. Regarding claim 16, Weiss teaches *receiving account option data* (col. 10, line 51 – col. 11, line 64, col. 12, line 63 – col. 13, line 26, col. 18, lines 34 – 55, col. 19, lines 1 – 29). Weiss teaches *receiving account formation data, wherein said account formation data is based upon said account option data* (col. 9, lines 48 – 61, col. 13, line 5 – col. 14, line 17). Weiss teaches *determining an account type based at least in part*

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upon said account option data and said account formation data (col. 10, line 51 – col. 11, line 64, col. 12, line 63 – col. 13, line 26, col. 18, lines 34 – 55, col. 19, lines 1 – 29). Weiss teaches creating an account, wherein said account is based upon said account type (col. 10, line 51 – col. 11, line 64, col. 12, line 63 – col. 13, line 26, col. 18, lines 34 – 55, col. 19, lines 1 – 29). Weiss teaches *receiving funds into a stored value component* (col. 4, line 33 – col. 6, line 44, col. 7, line 49 – col. 8, line 34). Weiss teaches receiving funds and a direct deposit account (col. 4, line 33 – col. 6, line 44, col. 7, line 49 – col. 8, line 34). Weiss teaches *providing an account access card, wherein said access card is based upon said account option data and has an associated value based upon said stored value component* (col. 4, line 11 – col. 7, line 10, col. 8, line 55 – col. 10, line 23). Weiss teaches overdraft protection (col. 19, line 14-60). Wherein the individual is required to qualify for the service. Overdraft protection was old and well know in the art at the time of the invention to be a feature offered on account for when the person goes over the amount in their account, that the bank would still pay the transaction even though the account is overdrawn. Palm Beach Post teaches receiving a transaction request with a value that exceeds the amount of funds available in the stored value component of the account (pg. 1). Palm Beach Post also teaches authorizing the clearing of the transaction (pg. 1). Weiss does not teach a checkless checking account. However, Vasic *teaches a checkless checking account* (§ 24- 47). Vasic teaches *establishing payment performance requirements for the line of credit* (§ 28, 50 - 67). Weiss teaches a banking system and method for opening an account. Weiss discloses full investment capability, full banking capability, bill payment capability,

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lending capability--basically everything a customer would financially need to do. Vasic discloses a way to offer an employee a financial resource from which forwarded wages may be drawn. Vasic discloses providing a payroll access resource which may be accomplished by providing a third party bank account. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weiss to include the details of a checkless checking account because a checkless checking account saves money and provides greater efficiency in the banking world. By adding a value to an access card, their pay can be accessed by the employee the second the money hits the account, rather than having to get their paycheck and having to cash the paycheck. Payroll cards, which can be used at automatic teller machines have existed for over 10 years. They were developed to market to corporations with large numbers of unbanked employees or highly decentralized operations. It reduces the need to produce checks and send them by overnight delivery to various locations. Weiss does not specifically teach a risk analysis performed on the formation data. However, Kjonaas teaches a risk analysis (§ 45-49). Both Weiss and Kjonaas teach the setting up of financial accounts. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Weiss to include the details of a risk analysis. A risk analysis allows the financial institution the ability to identify any problems that the customer may have currently or in the future. It allows the financial institution the ability to protect themselves as well as investors from possible fraud.

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30. Regarding claim 17, Weiss teaches *a stored value component may be modified by the step of receiving additional funds* (col. 4, line 33 – col. 6, line 44, col. 7, line 49 – col. 8, line 34).

31. Regarding claim 19, Weiss teaches *receiving a transaction request for a financial transaction utilizing the account access card* (col. 1, lines 42 – 51, col. 6, lines 15 – 30, col. 8, lines 34 – 50, col. 4, line 11 – col. 6, line 29, col. 9, line 23 – col. 10, line 23, col. 19, lines 9-60). Weiss teaches *clearing the transaction* (col. 1, lines 42 – 51, col. 6, lines 15 – 30, col. 8, lines 34 – 50, col. 4, line 11 – col. 6, line 29, col. 9, line 23 – col. 10, line 23, col. 19, lines 9-60).

32. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiss et al. (US 5866889 A) and Vasic (US 20010034676 A1) in further view of Palm Beach Post (1999) in further view of Official Notice now admitted prior art in further view of Kjonaas et al. (US 20010007332 A1).

33. Regarding claim 18, Weiss teaches receiving a transaction request for a cash withdrawal from an authorized automated teller machine utilizing the account access card (col. 1, lines 42 – 51, col. 6, lines 15 – 30, col. 8, lines 34 – 50). Weiss teaches clearing the transaction (col. 1, lines 42 – 51, col. 8, lines 34 – 50). Weiss does not teach rejecting any other type of transaction. Official notice now admitted prior art is taken that it was old and well known in the art at the time of the invention if a customer

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attempts to try to do "any other" transaction that is not supported by the automatic teller machine, the automatic teller machine would reject the transaction.

Conclusion

34. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMIE H. SWARTZ whose telephone number is (571)272-7363. The examiner can normally be reached on 8:00am-4:30pm Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571)272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. H. S./
Examiner, Art Unit 3684

/Susanna M. Diaz/

Primary Examiner, Art Unit 3684